

APPEAL NO. 031160  
FILED JUNE 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 1, 2003. The hearing officer decided that (decedent) death was not the result of the compensable injury sustained on \_\_\_\_\_. The appellant (claimants beneficiary) appeals that determination and the carrier (respondent) responds, urging affirmance.

DECISION

Affirmed.

It is undisputed that the decedent sustained a compensable head and back injury on \_\_\_\_\_, when a rear tire on the car he was driving blew out, causing a rollover type accident. After the accident the decedent's condition became worse and on September 6, 2001, he was hospitalized for what was ultimately diagnosed as bilateral subdural hematomas. During the next four months the claimant had four brain surgeries related to that diagnosis. It is also undisputed that the decedent had a serious preexisting heart condition. The record shows that prior to the accident the decedent had a bypass surgery in 1984 and a pacemaker inserted in 1996. The decedent died on (date of death), and the death certificate listed the cause of death to be "congestive heart failure and arteriosclerosis vascular disease."

The claimants beneficiary asserts that the compensable head injury, which resulted in four brain surgeries, and the follow-on complications from the head injury was a contributing cause of death. The claimants beneficiary testified that prior to the accident the decedent was active and independent; that his heart condition was under control; and that after the accident the decedent's condition deteriorated to the point that he was no longer active, had difficulty with his memory, and was depressed. The claimants beneficiary offered medical records in support of her position that the compensable injury contributed to the decedent's death. Dr. C, a cardiologist, states in a letter dated November 26, 2002, as follows:

Because of that accident, [the decedent] developed a subdural hematoma...He had a number of neurosurgical interventions for this subdural hematoma...This aggravated his problems with congestive failure and cardiac arrhythmias...He ultimately expired on (date of death) as a consequence of his multiple problems including the many complications from his head injury."

In addition, Dr. T opined that "I feel trauma of the accident also caused the patient's heart problems to escalate and occur more often...thus causing his death on (date of death)." Finally, in a letter dated November 21, 2002, Dr. V stated, "It is my opinion

that [the decedent's] death was accelerated by the closed-head injury, which caused the depression, which caused a decrease in physical activity, which accelerated his congestive heart failure and resulted in his death."

The carrier, in its response to the claimant's beneficiary's appeal, points to responses to its Deposition on Written Questions by Dr. C who opined that the death certificate was correct as to cause of death. The carrier also relies on the opinion of its peer review doctor, Dr. CR, and states "he concluded that the medical records did not support that the underlying heart condition had been adversely affected by the injury of \_\_\_\_\_."

The hearing officer determined that the decedent's death was not caused by the closed head compensable injury of \_\_\_\_\_. In Finding of Fact No. 9, the hearing officer notes that Dr. V's records showed a steady progress with the closed head injury and that he was even going to discuss return to work matters with the claimant on his next visit in three months. The claimant's beneficiary argues that the hearing officer took Dr. V's comments out of context when considering subsequent statements from Dr. V. The claimant's beneficiary argues that the comments merely show that Dr. V was "putting off the hard fact that [the decedent] may never drive again..."

With respect to the claimant's beneficiary's argument, we point out that as the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. Conflicting evidence was presented on the issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Although another hearing officer may well have determined that the compensable injury of \_\_\_\_\_, was a cause of the decedent's death, we are constrained in our review to determine whether there is evidence to support the hearing officer's decision. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **UNIVERSAL UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RON JOHNSON  
101 EAST PARK BOULEVARD, SUITE 200  
PLANO, TEXAS 75074.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Veronica Lopez-Ruberto  
Appeals Judge